

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§	
	§	
JASON SCHMITZ	§	CASE NO.: 18-35582
<i>dba</i> JASON SCHMITZ/SCHMITZ	§	CHAPTER: 7
INSURANCE	§	
CHRISTINA SCHMITZ	§	
DEBTOR.	§	

MOTION FOR RELIEF FROM THE STAY REGARDING SURRENDERED PROPERTY

THIS IS A MOTION FOR RELIEF FROM THE AUTOMATIC STAY. IF YOU OBJECT TO THE GRANTING OF RELIEF FROM THE AUTOMATIC STAY, YOU SHOULD CONTACT THE MOVANT IMMEDIATELY TO TRY TO REACH AN AGREEMENT. IF YOU CANNOT REACH AN AGREEMENT, YOU MUST FILE A WRITTEN RESPONSE AND SEND A COPY TO MOVANT NOT LATER THAN MARCH 29, 2018 AND YOU MUST ATTEND THE HEARING.

THE COPY SENT TO THE MOVANT MUST BE DELIVERED BY HAND OR ELECTRONIC DELIVERY IF IT IS SENT LESS THAN 7 DAYS PRIOR TO THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE HEARING MAY BE AN EVIDENTIARY HEARING AND THE COURT MAY GRANT OR DENY RELIEF FROM THE STAY BASED ON THE EVIDENCE PRESENTED AT THIS HEARING. IF A TIMELY OBJECTION IS FILED, THE COURT WILL CONDUCT A HEARING ON THIS MOTION ON APRIL 23, 2019 AT 10:00 AM IN COURTROOM 600, 6TH FLOOR, 515 RUSK, HOUSTON, TX 77002.

1. This motion requests an order from the Bankruptcy Court authorizing the person filing this motion to foreclose on or to repossess the property that is identified in paragraph 3.

2. Movant: U.S Bank National Association, as Trustee, Successor in interest to Bank Of America National Association, as Trustee, Successor by merger to LaSalle Bank National Association, as Trustee for Merrill Lynch Mortgage Investors Trust, Mortgage Loan Asset-Backed Certificates, Series 2006-RM2.

3. Movant, directly or as agent for the holder, holds a security interest in 30 Howell Creek Place, The Woodlands, TX 77382:¹

LOT SIXTY-THREE (63), IN BLOCK THREE (3), OF THE WOODLANDS, VILLAGE OF ALDEN BRIDGE, SECTION THIRTY-SIX (36), A SUBDIVISION IN MONTGOMERY COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF, RECORDED IN CABINET I, SHEET 152 OF THE MAP RECORDS OF MONTGOMERY COUNTY, TEXAS.

4. Movant has reviewed the schedules filed in this case. Debtor's schedules indicate an intention to surrender the subject property.

5. Type of collateral (e.g., Home, Manufactured Home, Car, Truck, Motorcycle): Home

6. Debtor's scheduled value of property: \$356,930.00.

7. Movant's estimated value of property: \$356,930.00.²

8. Total amount owed to movant, as of March 1, 2019: \$405,340.03.³

¹ The note, deed of trust, assignment(s) and corporate resolution are attached as Composite Exhibit "A".

² Valuation determined by the Montgomery County Appraisal Report – attached as Exhibit "B".

9. Estimated equity (paragraph 7 minus paragraph 8): \$-48,410.03.

10. Total pre and post-petition arrearages: \$85,916.35.

11. Total post-petition arrearages, as of March 1, 2019: \$9,490.32.

12. Amount of unpaid, past due property taxes, if applicable: \$0.00.

13. Expiration date on insurance policy, if applicable: N/A.

14. Movant seeks relief based on the debtor(s)' failure to make payments. Debtor(s)' payment history is attached as Exhibit "C". Movant represents that the attached payment history is a current payment history reflecting all payments, advances, charges and credits from the beginning of the loan. Movant further represents that the payment history is self explanatory or can be interpreted by application of coding information that is also attached. Movant acknowledges that the Court may prohibit the use of parol evidence to interpret a payment history that does not satisfy these representations.

15. If applicable: Christina Schmitz (Co-Debtor)

16. Based on the foregoing, movant seeks termination of the automatic stay to allow movant to foreclose or repossess the debtor(s)' property and seeks to recover its costs and attorneys' fees in an amount not to exceed the amount listed in paragraph 9.

17. Movant certifies that prior to filing this motion an attempt was made to confer with the Debtor(s)' counsel (or with Debtor(s), if *pro se*) either by telephone, by e-mail or by facsimile, by the following person on the following date and time: *Lisa Hecker on February 1, 2019 at 12:09 p.m. via email to Kyle Kenneth Payne, and again by Megan Clontz on March 11, 2019 at 2:19 p.m. via email to Kyle Kenneth Payne and Jeannie Andresen.* An agreement could not be reached. If requested by debtor or debtor's counsel, a payment history in the form attached to this motion was provided at least two days, excluding intermediate weekends and holidays, before this motion was filed.

Date: March 15, 2019

/s/ Megan F. Clontz

Movant's counsel signature

Name: Megan F. Clontz

State Bar No.: 24069703

S.D. Tex. Bar No.: 2191929

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Irving, Texas 75063

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Certificate of Service and Certificate of Compliance with BLR 4001

A copy of this motion was served on the persons shown on exhibit "1" at the addresses reflected on that exhibit on March 15, 2019 by prepaid United States first class mail. Movant certifies that movant has complied with Bankruptcy Local Rule 4001.

/s/ Megan F. Clontz

Movant's Counsel

³ This amount includes the unpaid principal balance, interest amount, escrow advance, and corporate fees.

EXHIBIT “1” – SERVICE LIST

Jason Schmitz
30 Howell Creek Place
The Woodlands, TX 77382

Christina Schmitz
30 Howell Creek Place
The Woodlands, TX 77382

Kyle Kenneth Payne
Payne & Associates, PLLC
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Trustee
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Hughes Watters and Askanase
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US Trustee
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